IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 11244 of 2004

Between:
Smt. Ch. Hanumayamma W/o Nageswara Rao, Sarpanch
Vinukonda Gram Panchayat, R/o Vinukonda, Guntur District

..... PETITIONER

AND

1 The District Collector (Panchayats) Guntur District at Guntur
2 The Divisional Panchayat Officer, Narsaraopet, Guntur District
3 S.K. Hasan Ahmed, S/o Mehboob Subhani, R/o. D.No.13/72, Pedanalsa Bazar, Vinukonda, Guntur District.
4 Kancharla China Venkayamma, W/o Edukondalu, 7th Ward Member, R/o. Obaiah Colony, Vinukonda, Guntur District.
(Respondents 3 and 4 are impleaded as per Court orders, dated 05-07-2004 in W.P.M.P. No.14456 of 2004)

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the proceedings of the 1st Respondent issued in ROC No. 5305/2002-G1, dt. 29/06/2004, in placing the petitioner under Suspension, as illegal, arbitrary and violative of principles of natural justice and consequentially set aside the same.

For the Petitioner: MR.POLISETTI RADHA KRISHNA, Advocate

For the Respondent Nos.1 and 2: GP FOR PANCHAYAT RAJ & RURAL DEVELOPMENT

For the Respondent Nos.3 and 4: Mr. C.V. Mohan Reddy, Advocate

The Court at the admission stage made the following :

THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 11244 of 2004

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Panchayat Raj and Rural Development and with their consent the writ petition itself is taken up for final disposal at the admission stage.

In this writ petition the petitioner seeks to declare the proceedings issued by first respondent-District Collector, dated 29-6-2004 placing her under suspension, as illegal and arbitrary, and consequently to set aside the said proceedings.

According to the petitioner, she is elected Sarpanch of Vinukonda Gram Panchayat, Guntur District. It is alleged that by the impugned proceedings dated 29-6-2004 the first respondent, invoking the provisions under Section 249(6) of the A.P. Panchayat Raj Act, 1994 (for short "the Act"), placed the petitioner under suspension from the post of Sarpanch for a period of three months pending further enquiry into the irregularities and misuse of Panchayat funds, without giving opportunity of being heard to her and without considering the detailed explanation submitted by her to the show cause notice issued by the first respondent in respect thereof. Questioning the impugned proceedings, the present writ petition is filed.

The learned Government Pleader for Panchayat Raj and Rural Development submitted that against the impugned orders of the first respondent there is an alternative remedy of appeal available to the petitioner under Section 249(4) of the Act before the Government and the petitioner without exhausting the appeal remedy, approached this Court

invoking the jurisdiction under Article 226 of the Constitution of India.

Having regard to the fact that the petitioner has the alternative remedy by way of appeal, it is open to the petitioner to file an appeal before the Appellate Authority against the orders of the first respondent under the impugned proceedings dated 29-06-2004, within a period of ten days from today, and on filing such an appeal, the Appellate Authority shall dispose of the same within one month thereafter. The impugned order of the first respondent, dated 29-6-2004 is suspended for a period of ten days from today. It is made clear that the petitioner is at liberty to file an application before the Appellate Authority seeking interim relief in the matter.

With the above observations, the writ petition is disposed of. No costs.

N.V. RAMANA, J

Date: 05-07-2004

Svv

To

1 The District Collector (Panchayats) Guntur District at Guntur

2 The Divisional Panchayat Officer, Narsaraopet, Guntur District

3 Two CCs.to the Government Pleader for Panchayat Raj and Rural Development, High Court Buildings, A.P., Hyderabad (OUT)
4 Two CD copies